

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Albert J. Welton, III,

Petitioner,

v.

ORDER

Civil No. 14-3044 ADM/HB

Warden Michelle Smith,

Respondent.

Albert J. Welton, III, pro se.

Matthew Frank and James B. Early, Minnesota Attorney General's Office, St. Paul, MN, and Lee W. Barry, III, Hennepin County Attorney's Office, Minneapolis, MN, on behalf of Defendant.

I. INTRODUCTION

This matter is before the undersigned United States District Judge for a ruling on Petitioner Albert J. Welton's Motion for Reconsideration [Docket No. 14] of Magistrate Judge Graham's August 6, 2014 Order [Docket No. 5] denying Welton's Motion to Appoint Counsel [Docket No. 2].

II. DISCUSSION

A petitioner does not have a right to counsel in a habeas corpus proceeding. Pennsylvania v. Finley, 481 U.S. 551, 556 (1987); McCall v. Benson, 114 F.3d 754, 756 (8th Cir. 1997). In such cases, the court has discretion to appoint counsel if the court finds it would be beneficial to its decision. McCall, 114 F.3d at 756; Davis v. Scott, 94 F.3d 444, 447 (8th Cir. 1996). When considering Welton's Motion to Appoint Counsel, Judge Graham found, based on the lack of complexity in Welton's claims and cogent written communications submitted by Welton, appointment of counsel was not warranted. See Order at 2. In his Motion for

Reconsideration, Welton argues Judge Graham failed to recognize his communications are effective only because he is receiving assistance from a “jailhouse lawyer.” Without this assistance, Welton claims he cannot effectively represent himself as a pro se litigant. Based on the record, Welton’s filings do not demonstrate that appointment of counsel would substantially benefit the Court or Welton. Accordingly, Welton’s Motion for Reconsideration is denied.

III. CONCLUSION

Based upon all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Petitioner’s Motion for Reconsideration of Magistrate Judge Graham’s August 6, 2014 Order [Docket No. 5] is **DENIED**.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: September 22, 2014.